



Appeal Decisions

Site visit made on 9 April 2024

by O S Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2024

Appeal A - Ref: APP/J1915/W/23/3332090

41 High Street, Buntingford, Hertfordshire SG9 9AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Steven Finney against the decision of East Hertfordshire District Council.
 - The application Ref 3/23/1519/HH, dated 5 August 2023, was refused by notice dated 11 October 2023.
 - The development proposed is the removal of existing conservatory, erection of rear single storey extension and loft conversion.
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Appeal B - Ref: APP/J1915/Y/23/3332095

41 High Street, Buntingford, Hertfordshire SG9 9AD

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Steven Finney against the decision of East Hertfordshire District Council.
 - The application Ref 3/23/1520/LBC, dated 5 August 2023, was refused by notice dated 11 October 2023.
 - The works proposed are the removal of existing conservatory, erection of rear single storey extension and loft conversion.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matter

3. Appeal B relates to part of the Grade II* listed building, named 'Victoria House, 41 43, High Street'¹, namely No 41 High Street. Because Appeal B relates to a refusal to grant listed building consent, both appeals relate to works that would affect the setting of other listed buildings, and the appeal site is within a conservation area, I have had special regard to Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. The main issues are the effect of the proposal on the:
 - special architectural or historic interest of the Grade II* listed building, Victoria House (Appeals A and B);

¹ List entry number 1101310

- special architectural or historic interest of the Grade II listed buildings, named '35, 37, 37A, High Street'², '39, High Street'³, '2 and 4, Baldock Road'⁴, and '6 and 8, Baldock Road'⁵ in terms of how the buildings are experienced in their settings (Appeals A and B);
- character and appearance of the area, including whether or not it would preserve or enhance the character or appearance of the Buntingford Conservation Area (Appeal A); and,
- living conditions of the occupiers of Nos 39 and 37A High Street, with regard to overlooking and privacy (Appeal A).

Reasons

Victoria House

Significance

5. Victoria House is a former Coaching Inn, from the 15th and 16th centuries. It is Grade II* listed. It is now partly a house (the appeal property) and partly a shop (No 43).
6. The rear elevation of the building has a prominent, large roof with historic tiles. There are two rear projections, both non-original but still historic, the smaller of which is part of the appeal property. To the appeal property, the windows are predominantly timber sash, but in some instances double glazed. The extension to the appeal property is subservient to the original part of the building, due to its relative narrowness and because it reflects the materiality and style of the main building. Although altered, the rear elevation is still relatively attractive and positively contributes to the significance of the listed building. This is with the exception of a small conservatory attached to the rear of the main rear wall, which is an unattractive, modern feature that detracts from the significance of the building.
7. Internally, the appeal property retains significant, important historic fabric, including historic walls to both ground and first floor, and historic timber rafters and support structure in the roof. This fabric positively contributes to the significance of the building. However, the layout has been much altered through the introduction of the rear extension and also through a small side, rear extension directly adjoining the rear elevation of the adjacent building. The layout of the house is therefore of lesser importance to the significance of the building.

Proposed

8. It is proposed to demolish the existing conservatory and erect a new rear extension at ground floor level that would project the full length of the existing rear extension. A separate structure would be erected in the rear garden to provide an outside dining area. There would also be various internal works associated with the new extension and a new loft room.

² List entry number 1101309

³ List entry number 1348022

⁴ List entry number 1347970

⁵ List entry number 1173795

Assessment

9. There is no objection to the removal of the poor quality existing conservatory. However, even though only one-storey, the proposed rear extension would, in conjunction with the existing rear projection, create a full-width extension to the appeal property. It would also be relatively tall for a one-storey structure, accentuated by the proposed balustrading to the roof terrace. It would therefore be too large and bulky. Its height would be disproportionate to the existing rear extension, unbalancing the appearance of the property at ground floor level. The prominent steel balustrading and spiral staircase would introduce an alien form and materiality to the rear elevation, causing further harm. In addition, although open sided, the proposed rear structure would be positioned close to the proposed rear extension and has a large footprint, further overwhelming the existing building.
10. The proposed rooflights would be of acceptable external appearance because they would be relatively small and unobtrusive and because there are existing rooflights to the roof of the existing rear extension to the No 43 part of the listed building. The submitted information states that they could be positioned without the loss of any historic timber rafters. However, whilst some of the rafters might be more modern, no substantiated information or survey work has been undertaken to confirm this, or whether or not the rooflights could be inserted without requiring the removal of historic timber. This cannot be conditioned because it has not been demonstrated that there is any possibility of the rooflights being installed without the loss of important historic fabric. In addition, inserting the rooflights would involve the loss of tiles from the roof.
11. The creation of a loft space would require a new floor and potentially new insulation or other roof material to the under-side of the existing roof. No survey or detailed structural work has been provided to confirm if these elements could be provided without requiring the removal of, or causing damage to, important historic fabric. For example, a tie-beam or other oak support beams to the loft floor. For the same reason as with the rooflights, this cannot be conditioned. Even if material harm could be avoided to the historic fabric, the partitioning of the currently open loft space and covering up of existing exposed historic timber framing would in itself be harmful.
12. Internally, the existing window to be removed and replaced to the rear elevation is a relatively modern double glazed unit. The wall to the bedroom to be removed is a partition wall, and the cupboard is also a modern and lightweight addition. These elements of the proposed works are therefore acceptable. In addition, below loft level, the overall change to the layout of the building would be acceptable, despite the introduction of a substantial, open living room because the layout has already been substantially altered from the original Inn through the rear extension.

Conclusion

13. As set out above, the proposal overall would harm the special architectural and historic interest of the Grade II* listed building. The proposal would therefore be contrary to Policies HA1 and HA7 of the East Herts District Plan 2018 (the DP), which reflect the requirements of the National Planning Policy Framework (the Framework) with regard to the protection or enhancement of listed buildings.

Nearby listed buildings

Setting and significance of the listed buildings

14. Directly to the south of the appeal property is the Grade II listed building, No 39 High Street. It is part of a terrace, albeit of distinctly different buildings, including the appeal property. Part of the first floor of No 39 sits over the most southerly element of the ground floor of the appeal property. The garden to the appeal property therefore partially lies underneath the first floor of No 39. This creates a very close and overlapping relationship between the two properties. The ground floor element of the appeal property is only one-storey, relatively small in footprint, and has articulation through step backs in its footprint. This, in combination with a small closet wing extension to No 39, creates a pleasing composition to the rear that positively contributes to the significance of No 39.
15. Further to the south, is the Grade II listed building, Nos 35 to 37A High Street, also part of the terrace. The rear elevations are appreciated together. There is screening at ground floor level because of a garden wall between Nos 39 and 41. However, there remains some inter-visibility, particularly above ground floor level, or as viewed from windows to first floor level or above. Nos 35, 37, 37A is further away from the appeal property than No 39 and has been more extensively extended and altered to the rear, including a fairly substantial ground floor extension with a terrace and associated balustrading above. Nevertheless, the appeal building is appreciated in the context of the rear of Nos 35 to 37A High Street and contributes positively to its setting.
16. There are further Grade II listed buildings along Baldock Road, at Nos 2 and 4, and 6 and 8. They are houses, from the 17th and 18th centuries. Insofar as is relevant to the appeal proposal, the primary element of their setting is that the rear gardens face towards the garden of the appeal property and the proposed works to the rear. As existing, there is an intimate relationship between the rear garden areas from the proximity of the buildings and that the Baldock Road properties are at right angles to those on High Street. Despite the partial erosion of the breathing space within the gardens by the extensions to the High Street buildings, this area contributes positively to the setting and therefore significance of the Baldock Road buildings. I acknowledge that there are some unfortunate elements in the rear garden areas, such as refrigeration units. However, this doesn't significantly undermine the fundamental relationship.

Assessment

17. The proposed rear extension, due to its bulk and mass, would unbalance the composition of the rear elevation of the appeal property as it relates to No 39. The extension in combination with the large open sided structure would overwhelm the setting of No 39, with the open sided structure to be located directly to the rear of the first floor of No 39. The proposed works would harm the currently pleasing, subservient, and articulated form at ground floor level, in the direct setting of No 39.
18. There would also be some harm to the setting of Nos 35 to 37A from the bulk, mass and footprint of the proposed extension and open sided structure, although this would be to a lesser degree because of the greater separation from the rear of that property, and the intervening existing garden wall providing some screening. For the same reasons, there would also be harm to the setting of Nos 2 and 4, and 6 and 8 Baldock Road.

Conclusion

19. For the reasons above, I have found harm to the special interest and significance of the Nos 35, 37, 37A, High Street, No 39 High Street, Nos 2 and 4 Baldock Road, and Nos 6 and 8 Baldock Road listed buildings in terms of how the buildings are experienced in their settings. The proposal would therefore be contrary to Policies HA1 and HA7 of the DP, which reflect the requirements of the Framework with regard to the protection or enhancement of listed buildings, including their settings.

Character and appearance

20. The appeal property lies in the Buntingford Conservation Area (the CA). As set out in the Buntingford Conservation Area Appraisal and Management Plan, July 2016, the buildings and street scene along High Street are the primary contribution to the significance of the CA. The proposal would not affect the appearance of High Street because the front elevation would be unchanged. There would, nevertheless, be some harm to the character and appearance of the area from the proposed works to the rear, for the reasons as set out above. The rear extension and open sided structure would be visible, albeit obliquely, from Baldock Road, and from private views from surrounding properties.
21. The proposal would, therefore, harm the character and appearance of the area including the CA. It would therefore fail to comply with Policies HA1, HA4, DES4, and HOU11 of the DP. These policies require high quality design and reflect the Framework with regard to the protection of the character or appearance of conservation areas.

Living conditions

22. There are residential properties to the above ground floor levels of Nos 39 and 37 High Street. No 39 has a window to the rear at first floor level that directly overlooks the garden of No 41, ie the appeal property. It also has a further window to the rear, as does No 37.
23. The proposed external dining area underneath the open sided structure could potentially lead to a greater intensity of use of the garden of the appeal property. However, the use of this area would not functionally change and there would not likely be a meaningful increase in noise or disturbance to neighbouring occupiers from the creation of this under cover space.
24. It is unclear if the proposed area on the flat roof of the proposed rear extension is proposed to be used as a terrace, or simply for fire access. However, the extent of balustrading and the over-engineered nature of the spiral staircase indicate that it is likely the intention is for it to be used as a roof terrace. I have given consideration as to whether a condition could be used to limit use of the flat roof for emergency access only. However, this would be difficult to enforce because of the ease of access to the terrace.
25. I therefore consider the effect of the proposal with the flat roof in use as a terrace. This would afford overlooking very close to the existing rear windows at first floor level to No 39. This would create a harmful loss of privacy to the occupants of No 39. Although to a lesser degree, because of the greater distance and more oblique angle, there would also be overlooking at fairly close distance to the rear windows to No 37, also resulting in a harmful loss of privacy.

26. The existing overlooking of the garden of the appeal property by users of the existing terrace to No 37 is not a relevant consideration. This is because, even if this does create a harmful relationship and loss of privacy to the occupants of the appeal property, this would not justify the creation of a harmful relationship in the opposite direction.
27. As such the proposal would unacceptably harm the living conditions of the occupiers of Nos 39 and 37 High Street with regard to loss of privacy. The proposal therefore fails to comply with Policy DES4 of the DP, which seeks to protect living conditions.

Other Matter

28. The appellant alleges that there are numerous breaches of local planning and listed building consent in the nearby area. I have not considered this further because the proposed works must be considered on their own merits.

Planning Balance

29. The harm that I have identified above to the significance of Victoria House would be reasonably significant, and to a Grade II* listed property. I place great weight on this harm, as directed by Paragraph 205 of the Framework. Nevertheless, it would be less than substantial harm. The harm to the settings of the nearby listed buildings and to the CA would be lesser and would also be less than substantial harm. As set out at Paragraph 208 of the Framework, where a development proposal would lead to less than substantial harm to the significance of designated heritage assets, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
30. The appeal property is an occupied dwelling of reasonable size and in good condition. There is no evidence before me, or reason to believe, that the proposed works are required to secure its continuing viable use. The public benefits of the proposal are very limited because it would only result in the modest increase in size and useability of the home. The public benefits would not, therefore, outweigh the harm to the significance of the listed buildings and the CA, as set out above. The proposal therefore fails to comply with the Framework and with Policy HA1 of the DP, which reflects the Framework in this regard.

Conclusions

31. For the reasons set out above, Appeal A is dismissed.
32. For the reasons set out above, Appeal B is dismissed.

O S Woodward
INSPECTOR